

Truro Board of Health Minutes
Tuesday, June 19, 2007
4:00 pm-Truro Town Hall

Members Mark Peters, Lucy Brown, Tracey Rose,
Present: Dianne Eib, Tim Rose-Absent

Present: Susan Travers, Jason Ellis, Colin Leonard, Tim Brady, Julia Bergmark-Lester, David Bergmark, Scott Kazloukas-Noyes, Ross Cicero, Attorney Lester J. Murphy, William Rogers, Jim McCollum, Austin Rose, Gary Palmer, Claire Perry, Lauren Anderson, Terry Ryder, Diane Tillotson, Dave Bennett, Lynn Hamlin, Gary Palmer, Will Cromer, Patricia Pajaron-absent

Meeting Convened Dianne Eib convened the meeting at 4:00 p.m.

Review/Approve Minutes for June 5, 2007

Mark Peters moved to amend the June 5, 2007 minutes, seconded by Lucy Brown.

Vote: 4-0 , unanimous.

Water Resources Oversight Committee

No report.

Emergency Preparedness Report

No report.

Planning, Conservation Commission and BOH Working Group Report

No report.

Show Cause Hearing-Delgizzi, d/b/a Highland Inn, 4 Moses Way

The owners of the property failed to appear before the Board for the Show Cause Hearing. The hearing was scheduled in response to the owners of 4 Moses Way not allowing the team inspectors entry into the rental property to perform their duties on two separate occasions. The team inspection was prompted by the owners due to a change in manager. The health agent does not recommend that the Board order the occupants to vacate the premises. Dianne Eib requested that the Board make every effort to hand deliver a notice of the show cause hearing. It was suggested the Constable deliver the notice and the Board of Selectmen be asked to request town counsel's involvement.

Mark Peters moved to approve the constable hand delivering a notice of a show cause hearing to Joseph Poire, John Hobbs and Kim Girard, the managers on record of 4 Moses Way as soon as possible to appear before the Board of Health on July 3, 2007 at 4:15 p.m., seconded by Lucy Brown. Vote: 4-0, unanimous. Gary Palmer informed the Board that the Highland Inn must be declared in violation as of June 19, 2007 in order to apply penalties to the property owners. Jim Russo, the property manager for the Delgizzi's has resigned from his duties. **Mark Peters moved to declare David Delgizzi in violation to comply with the Truro Board of Health regulations as of June 19, 2007, seconded by Lucy Brown. Vote: 4-0, unanimous.**

Review of the I/A septic system plan for provisional use-37 Corn Hill Road

Lucy Brown recused herself from the discussion. Tim Brady, East Cape Engineering spoke on behalf of his client Claire Perry owner of 37 Corn Hill Road. This project came before the Board on May 16, 2007 for approval of a Septi-Tech I/A system under piloting use approval for a design flow credit of 115gpd or one bedroom flow on a vacant lot consisting of 6975 sq. ft. The applicant has returned to the Board requesting approval of the Septi-Tech I/A system under provisional use, which was approved by DEP on November 23, 2006. The conservation commission has approved the order of conditions. The owner's are waiting for final approval from DEP. The health agent recommends a one bedroom deed restriction with evidence of recording must be presented to the health agent prior to issuance of the Disposal Works Construction Permit for the system. Recording at the Record Notice at Barnstable Registry of Deeds. All applicants gaining Board approval for the installation of any I/A systems shall be required to record at the Barnstable County Registry of Deeds a notice that the property is served by an I/A system together with an explanation of the Inspection. The Board should verify that the house will not be occupied seasonally. A signed operation and maintenance agreement be submitted to the Health Agent prior to issuance of a DWCP. The following parameters shall be monitored quarterly; pH, influent BOD5, effluent CBOD5, TSS, Alkalinity and TN. The Board asked Mr. Brady to provide background and paper work on the new system to help them with the approval of the new system. **Mark Peters moved to continue the discussion on the review of the I/A septic system plan for provisional use-37 Corn Hill Road until July 17, 2007 and the requested information has been submitted, seconded by Tracey Rose. Vote: 3-0, unanimous.**

Approval of Title 5 variances-10 Pilgrim's Path

Terry Ryder, Ryder and Wilcox asked the Board for permission to postpone the hearing until the Nogueira's attorney was able to attend the hearing. **Lucy Brown moved to postpone the hearing until the end of the meeting in order for the Nogueira's Attorney to appear before the Board, seconded by Mark Peters. Vote: 4-0, unanimous.**

Discussion of Preliminary Plan Review – 30 Highland Road

Colin Leonard and Lauren Anderson appeared before the Board for a discussion on the new house plans which were redrawn by Mr. Leonard. With guidance from the Board on how to proceed with the project so that the dwelling has one bedroom, the property owner and the Board came to an agreement. The Board has no problem with the new plan that was submitted.

(Continued) Request for a Title 5 variance-9 Francis Road

A site visit was held on June 14th with four members of the Board, JC Ellis and the abutter Karen Snow to discuss the proposed upgrade of the septic system. Ms. Snow presented to the Board a list of concerns and requests regarding the upgrade.

(Continued) Request for a Title 5 variance-9 Francis Road

Ms. Snow's concerns are:

1. the applicant is requesting a 25% reduction in the required SAS, GW flow is in a south/southwesterly direction. Ms. Snow has requested that her well be tested for nitrates. Annual testing of nitrates should be required. Further nitrate analysis on abutting properties will be conducted should this property exceed 5ppm. 2. possible parking of vehicles in the area of the existing septic tank, upgrade from H-10 to H-20 loading. Note #1 on the plan specifically states that any anticipated vehicular traffic H-20 loading rating is required. 3. Bedroom number discrepancy in Building A. As stated before, Building A consists of 2 bedrooms and is served by a 1978 code Title 5 installed in 1985. There are no floor plans on file for Building A and B since they were constructed in 1945-1946. Building A was permitted as a 2 bedroom dwelling based on the septic plan which states a 2 bedroom septic design. I recommend that a deed restriction limiting the number of bedrooms to five be placed on the property. 4. Reducing the bedroom count. The Board cannot order a property owner to reduce the number of bedrooms on a property for an existing dwelling. In new construction, the number of bedrooms and total number of rooms can be regulated under current Title 5 and BOH regulations. The 2 buildings on this lot were built prior to all applicable health, zoning and building codes. The Board can place conditions on a property subject to approval of the variances to Title 5. 5. Consider alternative ways to reduce nitrogen. If the owner of a system that is located in an area subject to the 440 nitrogen loading limitations wishes to, or is being required to, upgrade, not repair, his/her system, the Board must determine whether enhanced nitrogen removal should be required. Because the nitrogen loading limitations apply to systems serving "new construction," if the upgrade does not also include an increase in design flow, i.e. the addition of a bedroom in the case of a house, then enhanced nitrogen removal is not required automatically. Instead, under its authority in 310 CMR 15.303(2), 310 CMR 15.304(4) and 310 CMR 15.003(1), and the goal of full or maximum feasible compliance, as stated in 310 CMR 15.404, and based on the circumstances of the particular site, the approving authority may require enhanced nitrogen removal. This property is not located in a Zone II of a PWS. I would recommend the following conditions upon granting the variances:

1. A deed restriction limiting the number of bedrooms to five. Such deed restriction, with evidence of recording, must be presented to the Health Agent prior to issuance of the Disposal Works Construction Permit for the system.
2. No increases in design flow or square footage of the existing dwellings be allowed.
3. Annual testing of nitrates. Nitrate results greater than 5mg/L (ppm) will result in review by the Board of Health for further evaluation and/or appropriate mitigation methods.
4. That the septic tank must be pumped at two-year intervals.
5. That the existing system must be pumped dry and filled with clean soil before the new system is in service, or the system removed and the resulting void filled.

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(Continued) Request for a Title 5 variance-9 Francis Road

6. Should this property convert to a condo form of ownership, annual inspection of the system shall be required, with the report submitted to the Health Agent.
7. A floor plan of Building A and B be recorded with the deed restriction.

Lucy Brown moved to approve the above conditions outlined by the health agent for 9 Francis Road, seconded by Mark Peters. Vote: 4-0, unanimous.

(Continued) New Business License-Ross Cicero, mgr. d/b/a Truro Sea Grille, 8 Highland Road

Ross Cicero and Scott Noyes discussed the new business license for Truro Sea Grille. The Board requested that Mr. Cicero provide them with the Articles of Organization, a business certificate issued by the Town of Truro, clarification on the well, where the oil tank is located and that the Electrical inspector sign off on the building permit after being inspected. Mr. Cicero was directed to complete a new business license application and return it to town hall. All violations have been corrected at this time. **Mark Peters moved to grant a provisional business license approved by the health agent when the application, electrical violations and paper work has been submitted to the town, seconded by Tracey Rose. Vote: 4-0, unanimous.**

Request for Bedroom Count Determination-Perry, 6 Ryder Hollow Road

Jim McCollum, the real estate agent representing the Perry's discussed the bedroom count determination for 6 Ryder Hollow Road. The parcel land is served by a well and a 1978 Code Title 5 system installed in 1986. There appears to be a discrepancy in the number of bedrooms that was listed on the DWCP and what is actually on the property. On the face of DWCP #86-6 the number of bedrooms was written as "2 ADD, 2 Main House". The health agent has conducted a walk thru on May 10th and determined the number of bedrooms to be five: Main house: 3 bedrooms on the second floor and the Addition has 2 bedrooms. The assessor's records indicate the number of bedrooms to be three. The Board would like to conduct a site visit of their own before a decision on the bedroom count is determined. **Lucy Brown moved to continue the request for bedroom count determination until July 3, 2007, a site visit of the property needs to occur before the 7/3/2007 meeting and a complete site and septic plan be submitted, seconded by Mark Peters for the sake of discussion.** Mr. McCollum mentioned Robert Waters had inspected the septic system and the report was given to the health agent. The scheduled site visit will be tentatively scheduled for June 28th at 2:30 p.m. Mr. McCollum will confirm with the health agent and the owner's of the property. **Vote: 4-0, unanimous.**

Approval of Title 5 variances-10 Pilgrim's Path

Terry Ryder, Ryder and Wilcox and Attorney Diane Tillotson discussed the variances the Nogueira's were seeking for their property at 10 Pilgrim's Path. **(Continued on page 5)**

Approval of Title 5 variances-10 Pilgrim's Path

Mr. Ryder has revised the site and septic plan dated June 5, 2007 for the upgrade for a Title 5 system with variances. The variances are as follows: **1.** The leaching area shall be eight feet from a property line, where ten feet is required. A two foot variance is requested. **2.** The leaching area shall be ten feet from a crawl space where twenty feet is required. A ten foot variance is requested. **3.** The leaching area will be fifty feet from the well on an abutting property, parcel 111, where one hundred is required (a fifty foot variance is requested). **4.** The leaching area will be twenty-nine feet from the top of a coastal bank where fifty feet is required. A twenty-one foot variance is requested. **5.** The leaching area will be twenty-nine feet from the top of a coastal bank where one hundred fifty is required. A one hundred twenty one foot variance is requested. **6.** The septic tank will be ninety feet from the top of a coastal bank where one hundred feet is required. A ten foot variance is requested. **7.** The leaching area will be fifty feet from the well on parcel 111 where one hundred fifty feet is required. A one hundred foot variance is requested. **8.** The septic tank will be fifty-five feet from the well on parcel 111 where seventy five feet is required. A twenty foot variance is requested. **9.** The leaching area will be one hundred nineteen feet from the well on parcel 116 where one hundred fifty feet is required. A thirty one foot variance is requested. **10.** The septic tank will be seventy-three feet from the well on parcel 116 where seventy-five feet is required. A two foot variance is requested. **11.** The septic tank will be fifty feet from the locus well where seventy feet is required. A twenty-five foot variance is requested. **12.** The leaching area will be one hundred three feet from the locus well where one hundred fifty feet is required. A forty seven foot variance is requested. Input from the Board of Health and the Conservation Commission will help in identifying where the septic system and well should be placed on the property. Attorney Murphy spoke on behalf of the abutter's and in the interest of public health. Lynn Hamlin, a scientist that has studied the area feels that the bank on the property is stabile. William Rogers, an engineer spoke in opposition of the placement of the well and septic system. Mr. Rogers thought the wells should be located near the road and the septic system on the southeastern side of the existing building. Lucy Brown suggested a site visit to 10 Pilgrim's Path with the Conservation Commission, Ryder and Wilcox, Mr. Bennett (Bennett and O'Reilly), and the Attorney's for both parties. Mr. Bergmark, an abutter to the Noguiera's, is concerned about the location of his well in relation to the proposed SAS at the Noguiera's property. Mr. Cromer, another abutter was not informed of the Noguiera's plans regarding the siting of his neighbors systems. **Lucy Brown moved to schedule a site visit at 10 Pilgrim's Path after 2:30 p.m. prior to the next regular meeting of the Board on July 3, 2007 with the Truro Conservation Commission and to continue the hearing until 7/3/2007, Mark Peters seconded the motion for the sake of discussion.** Mr. Peters felt there was not a need for the Conservation Commission to attend the site visit. Ms. Brown asked Dave Bennett from Bennett and O'Reilly to explain what he discovered at the property. Bennett and O'Reilly installed three groundwater monitoring wells, multiple evolutions of water table elevation surveys and aquifer testing was conducted to evaluate existing water quality. **(Continued on page 6)**

Approval of Title 5 variances-10 Pilgrim's Path

Because of the limitations of the abutting properties lines, the presented relocation of leaching facilities and private wells. At the Nogueira and Cromer properties provides a maximum feasibility scenario with consideration of coastal resource protection and water quality preservation. Mr. Bennett felt the Board of Health could make a determination with the information provided. **Vote: 4-0, unanimous.**

Adjournment

Mark Peters moved to adjourn at 5:56 pm, seconded by Lucy Brown. Vote: 4-0, unanimous.

Dianne Eib, Chairman

Tracey Rose

Lucy Brown, Vice-Chairman

Tim Rose

Mark Peters, Clerk

, Alternate